



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 3

SENTENCING AND PUNISHMENT OF OFFENDERS

CHAPTER 4

RELEASE ON LICENCE ETC

Calculation of days to be served

108 Crediting of periods of remand in custody

- (1) Omit section 240 of the Criminal Justice Act 2003 (court to direct that remand time be credited towards time served).
- (2) Before section 240A of that Act insert—

“240ZA Time remanded in custody to count as time served: terms of imprisonment and detention

- (1) This section applies where—
 - (a) an offender is serving a term of imprisonment in respect of an offence, and
 - (b) the offender has been remanded in custody (within the meaning given by section 242) in connection with the offence or a related offence.
- (2) It is immaterial for that purpose whether, for all or part of the period during which the offender was remanded in custody, the offender was also remanded in custody in connection with other offences (but see subsection (5)).

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- (3) The number of days for which the offender was remanded in custody in connection with the offence or a related offence is to count as time served by the offender as part of the sentence.

But this is subject to subsections (4) to (6).

- (4) If, on any day on which the offender was remanded in custody, the offender was also detained in connection with any other matter, that day is not to count as time served.

- (5) A day counts as time served—

- (a) in relation to only one sentence, and
- (b) only once in relation to that sentence.

- (6) A day is not to count as time served as part of any period of 28 days served by the offender before automatic release (see section 255B(1)).

- (7) For the purposes of this section a suspended sentence—

- (a) is to be treated as a sentence of imprisonment when it takes effect under paragraph 8(2)(a) or (b) of Schedule 12, and
- (b) is to be treated as being imposed by the order under which it takes effect.

- (8) In this section “related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.

- (9) For the purposes of the references in subsections (3) and (5) to the term of imprisonment to which a person has been sentenced (that is to say, the reference to the offender’s “sentence”), consecutive terms and terms which are wholly or partly concurrent are to be treated as a single term if—

- (a) the sentences were passed on the same occasion, or
- (b) where they were passed on different occasions, the person has not been released at any time during the period beginning with the first and ending with the last of those occasions.

- (10) The reference in subsection (4) to detention in connection with any other matter does not include remand in custody in connection with another offence but includes—

- (a) detention pursuant to any custodial sentence;
- (b) committal in default of payment of any sum of money;
- (c) committal for want of sufficient distress to satisfy any sum of money;
- (d) committal for failure to do or abstain from doing anything required to be done or left undone.

- (11) This section applies to a determinate sentence of detention under section 91 or 96 of the Sentencing Act or section 227 or 228 of this Act as it applies to an equivalent sentence of imprisonment.”

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109 Crediting of periods of remand on bail

(1) Section 240A of the Criminal Justice Act 2003 (crediting periods of remand on bail: terms of imprisonment and detention) is amended as follows.

(2) In subsection (2), for “subsection (4)” substitute “ subsections (3A) and (3B) ”.

(3) For subsections (3) to (7) substitute—

“(3) The credit period is calculated by taking the following steps.

Step 1 Add—

- (a) the day on which the offender's bail was first subject to the relevant conditions (and for this purpose a condition is not prevented from being a relevant condition by the fact that it does not apply for the whole of the day in question), and
- (b) the number of other days on which the offender's bail was subject to those conditions (but exclude the last of those days if the offender spends the last part of it in custody).

Step 2 Deduct the number of days on which the offender, whilst on bail subject to the relevant conditions, was also—

- (a) subject to any requirement imposed for the purpose of securing the electronic monitoring of the offender's compliance with a curfew requirement, or
- (b) on temporary release under rules made under section 47 of the Prison Act 1952.

Step 3 From the remainder, deduct the number of days during that remainder on which the offender has broken either or both of the relevant conditions.

Step 4 Divide the result by 2.

Step 5 If necessary, round up to the nearest whole number.

(3A) A day of the credit period counts as time served—

- (a) in relation to only one sentence, and
- (b) only once in relation to that sentence.

(3B) A day of the credit period is not to count as time served as part of any period of 28 days served by the offender before automatic release (see section 255B(1)).”

^{F1}(4)

(5) Omit subsections (9) and (10).

(6) In subsection (11)—

- (a) for “Subsections (7) to (10) of section 240” substitute “ Subsections (7) to (9) and (11) of section 240ZA ”;
- (b) in paragraph (b), for “in subsection (8) the reference to subsection (3) of section 240 is” substitute “ in subsection (9) the references to subsections (3) and (5) of section 240ZA are ”.

^{F2}(7)

(8) In the heading of the section, for “Crediting periods of remand on bail” substitute “ Time remanded on bail to count towards time served ”.

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Textual Amendments

- F1** S. 109(4) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F2** S. 109(7) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Modifications etc. (not altering text)

- C1** S. 109 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1, 5\(2\)\(3\)](#); [S.I. 2012/1236](#), reg. 2

110 Amendments consequential on sections 108 and 109

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 237(1C) (meaning of “fixed-term prisoner”)—
 - (a) for “section 240” substitute “ section 240ZA ”;
 - (b) after “Armed Forces Act 2006” insert “ or section 240A ”.
- (3) Section 241 (effect of direction under section 240 or 240A) is amended as follows.
- (4) In subsection (1)—
 - (a) for “to whom a direction under section 240 or 240A relates” substitute “ to whom section 240ZA applies or a direction under section 240A relates ”;
 - (b) for “specified in the direction” substitute “ specified in section 240ZA or in the direction under section 240A ”.
- (5) In subsection (1A), for “a direction under section 240 or 240A includes a direction under” substitute “ section 240ZA includes ”.
- (6) In the heading, for “direction under section 240 or 240A” substitute “ section 240ZA or direction under section 240A ”.
- (7) In section 242 (interpretation of sections 240 to 241), in subsections (1) and (2) and in the heading, for “sections 240” substitute “ sections 240ZA ”.
- (8) For section 243(2) (persons extradited to the United Kingdom) substitute—
 - “(2) In the case of an extradited prisoner, the court must specify in open court the number of days for which the prisoner was kept in custody while awaiting extradition.
 - (2A) Section 240ZA applies to days specified under subsection (2) as if they were days for which the prisoner was remanded in custody in connection with the offence or a related offence.”
- (9) In section 246 (power to release prisoners early)—
 - (a) in subsection (4)(i), for “to whom a direction under section 240 or 240A relates” substitute “ to whom section 240ZA applies or a direction under section 240A relates ”;
 - (b) in subsection (4A)(b), for “a direction under section 240 includes a direction under” substitute “ section 240ZA includes ”.

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- ^{F3}(10)
- (11) In section 305(1A) (modification of reference to want of sufficient distress), inserted by paragraph 155 of Schedule 13 to the Tribunals, Courts and Enforcement Act 2007, for “In the definition of “sentence of imprisonment” in subsection (1) the reference” substitute “ In this Part any reference ”.
- (12) In section 330(5) (rules to be subject to affirmative resolution)—
- (a) after paragraph (b) insert “ or ”, and
 - (b) omit paragraph (d) and the “or” preceding it.
- (13) Schedule 13 (crediting of time in custody) has effect.
- (14) In consequence of the amendments made by this section, in the Criminal Justice and Immigration Act 2008 omit—
- (a) section 21(2), (5) and (7);
 - (b) section 22(2) and (3);
 - (c) section 23 and Schedule 6.

Textual Amendments

F3 S. 110(10) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with [ss. 413\(4\)\(5\), 416\(7\), Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Release

111 Prisoners serving less than 12 months

- (1) After section 243 of the Criminal Justice Act 2003 insert—

“Unconditional release

243A Duty to release prisoners serving less than 12 months

- (1) This section applies to a fixed-term prisoner who is serving a sentence which is for a term of less than twelve months.
- (2) As soon as a prisoner to whom this section applies has served the requisite custodial period for the purposes of this section, it is the duty of the Secretary of State to release that person unconditionally.
- (3) For the purposes of this section “the requisite custodial period” is—
- (a) in relation to a person serving a sentence of imprisonment for a term of less than twelve months or a determinate sentence of detention under section 91 or 96 of the Sentencing Act for such a term, one-half of the sentence, and
 - (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).
- (4) This section is subject to—
- (a) section 256B (supervision of young offenders after release), and

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(b) paragraph 8 of Schedule 20B (transitional cases).”

(2) Schedule 14 (amendments consequential on subsection (1)) has effect.

112 Restrictions on early release subject to curfew

(1) In section 246 of the Criminal Justice Act 2003 (power to release prisoners on licence), subsection (4) is amended as follows.

(2) After paragraph (a) insert—

“(aa) the sentence is for a term of 4 years or more.”.

(3) In paragraph (g)—

(a) for “during the currency of the sentence” substitute “ at any time ”, and

(b) at the end insert “ (and the revocation has not been cancelled under section 255(3)) ”.

(4) Omit the “or” at the end of paragraph (h) and after that paragraph insert—

“(ha) the prisoner has at any time been returned to prison under section 40 of the Criminal Justice Act 1991 or section 116 of the Sentencing Act, or”.

(5) After subsection (4) of that section insert—

“(4ZA) Where subsection (4)(aa) applies to a prisoner who is serving two or more terms of imprisonment, the reference to the term of the sentence is—

(a) if the terms are partly concurrent, a reference to the period which begins when the first term begins and ends when the last term ends;

(b) if the terms are to be served consecutively, a reference to the aggregate of the terms.”

(6) In subsection (6) of that section, at the end insert—

“““term of imprisonment” includes a determinate sentence of detention under section 91 or 96 of the Sentencing Act or under section 227 or 228 of this Act.””

Further release after recall

113 Cancellation of revocation of licence

(1) After section 254(2) of the Criminal Justice Act 2003 (representations by person recalled) insert—

“(2A) The Secretary of State, after considering any representations under subsection (2)(a) or any other matters, may cancel a revocation under this section.

(2B) The Secretary of State may cancel a revocation under subsection (2A) only if satisfied that the person recalled has complied with all the conditions specified in the licence.

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(2C) Where the revocation of a person's licence is cancelled under subsection (2A), the person is to be treated as if the recall under subsection (1) had not happened.”

(2) In section 255(3) of that Act (cancellation of revocation under section 255), for “subsection (2)(b)” substitute “ subsection (2)(a) ”.

114 Further release after recall

(1) For sections 255A to 255D of the Criminal Justice Act 2003 (further release after recall) substitute—

“Further release after recall

255A Further release after recall: introductory

- (1) This section applies for the purpose of identifying which of sections 255B and 255C governs the further release of a person who has been recalled under section 254.
- (2) The Secretary of State must, on recalling a person other than an extended sentence prisoner, consider whether the person is suitable for automatic release.
- (3) For this purpose “automatic release” means release at the end of the period of 28 days beginning with the date on which the person returns to custody.
- (4) A person is suitable for automatic release only if the Secretary of State is satisfied that the person will not present a risk of serious harm to members of the public if released at the end of that period.
- (5) The person must be dealt with—
 - (a) in accordance with section 255B if suitable for automatic release;
 - (b) in accordance with section 255C otherwise.
- (6) For the purposes of this section, a person returns to custody when that person, having been recalled, is detained (whether or not in prison) in pursuance of the sentence.
- (7) An “extended sentence prisoner” is a prisoner serving an extended sentence imposed under—
 - (a) section 227 or 228 of this Act, or
 - (b) section 85 of the Sentencing Act;and paragraph (b) includes (in accordance with paragraph 1(3) of Schedule 11 to the Sentencing Act) a reference to section 58 of the Crime and Disorder Act 1998.

255B Automatic release

- (1) A prisoner who is suitable for automatic release (“P”) must—
 - (a) on return to prison, be informed that he or she will be released under this section (subject to subsections (8) and (9)), and

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- (b) at the end of the 28 day period mentioned in section 255A(3), be released by the Secretary of State on licence under this Chapter (unless P is released before that date under subsection (2) or (5)).
- (2) The Secretary of State may, at any time after P is returned to prison, release P again on licence under this Chapter.
- (3) The Secretary of State must not release P under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).
- (4) If P makes representations under section 254(2) before the end of that period, the Secretary of State must refer P's case to the Board on the making of those representations.
- (5) Where on a reference under subsection (4) the Board directs P's immediate release on licence under this Chapter, the Secretary of State must give effect to the direction.
- (6) Subsection (7) applies if P is recalled before the date on which P would (but for the earlier release) have served the requisite custodial period for the purposes of section 243A or (as the case may be) section 244.
- (7) Where this subsection applies—
 - (a) if P is released under this section before that date, P's licence must include a curfew condition complying with section 253, and
 - (b) P is not to be so released (despite subsections (1)(b) and (5)) unless the Secretary of State is satisfied that arrangements are in place to enable that condition to be complied with.
- (8) Subsection (9) applies if, after P has been informed that he or she will be released under this section, the Secretary of State receives further information about P (whether or not relating to any time before P was recalled).
- (9) If the Secretary of State determines, having regard to that and any other relevant information, that P is not suitable for automatic release—
 - (a) the Secretary of State must inform P that he or she will not be released under this section, and
 - (b) section 255C applies to P as if the Secretary of State had determined, on P's recall, that P was not suitable for automatic release.

255C Extended sentence prisoners and those not suitable for automatic release

- (1) This section applies to a prisoner (“P”) who—
 - (a) is an extended sentence prisoner, or
 - (b) is not considered to be suitable for automatic release.
- (2) The Secretary of State may, at any time after P is returned to prison, release P again on licence under this Chapter.
- (3) The Secretary of State must not release P under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison.

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- (4) The Secretary of State must refer P's case to the Board—
 - (a) if P makes representations under section 254(2) before the end of the period of 28 days beginning with the date on which P returns to custody, on the making of those representations, or
 - (b) if, at the end of that period, P has not been released under subsection (2) and has not made such representations, at that time.
- (5) Where on a reference under subsection (4) the Board directs P's immediate release on licence under this Chapter, the Secretary of State must give effect to the direction.
- (6) Subsection (7) applies if P is recalled before the date on which P would (but for the earlier release) have served the requisite custodial period for the purposes of section 243A or (as the case may be) section 244.
- (7) Where this subsection applies—
 - (a) if P is released under this section before that date, P's licence must include a curfew condition complying with section 253, and
 - (b) P is not to be so released (despite subsection (5)) unless the Secretary of State is satisfied that arrangements are in place to enable that condition to be complied with.
- (8) For the purposes of this section, P returns to custody when P, having been recalled, is detained (whether or not in prison) in pursuance of the sentence.”
- (2) After section 244(1) of that Act (duty to release certain prisoners on licence at half-way point) insert—

“(1A) Subsection (1) does not apply if the prisoner has been released on licence under section 246 and recalled under section 254 (provision for the release of such persons being made by sections 255B and 255C).”
- (3) In the heading of section 253 of that Act (curfew conditions) after “section 246” insert “, 255B or 255C ”.
- (4) In section 256(1) of that Act (review by the Board), for “section 255B(4), 255C(4) or 255D(1)” substitute “ section 255B(4) or 255C(4) ”.
- (5) In consequence of the amendments made by this section, omit section 29(2) and (3) of the Criminal Justice and Immigration Act 2008.

Other provisions about release

115 Supervision of young offenders after release

After section 256A of the Criminal Justice Act 2003 insert—

“Supervision of young offenders after release

256B Supervision of young offenders after release

- (1) This section applies where a person (“the offender”) is released under this Chapter from one of the following terms if the term is for less than 12 months—

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- (a) a term of detention in a young offender institution;
 - (b) a term of detention under section 91 of the Sentencing Act;
 - (c) a term of detention under section 209 of the Armed Forces Act 2006.
- (2) The offender is to be under the supervision of—
- (a) an officer of a provider of probation services,
 - (b) a social worker of a local authority, or
 - (c) if the offender is under the age of 18 years at the date of release, a member of the youth offending team.
- (3) Where the supervision is to be provided by an officer of a provider of probation services, the officer must be an officer acting in the local justice area in which the offender resides for the time being.
- (4) Where the supervision is to be provided by—
- (a) a social worker of a local authority, or
 - (b) a member of a youth offending team,
- the social worker or member must be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.
- (5) The supervision period begins on the offender's release and ends three months later (whether or not the offender is detained under section 256C or otherwise during that period).
- (6) During the supervision period, the offender must comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.
- (7) The requirements that may be specified in a notice under subsection (6) include—
- (a) requirements for securing the electronic monitoring of the offender's compliance with any other requirements specified in the notice;
 - (b) requirements for securing the electronic monitoring of the offender's whereabouts (otherwise than for the purpose of securing compliance with requirements specified in the notice);
 - (c) in the circumstances mentioned in subsection (8), requirements to provide, when instructed to do so by an officer of a provider of probation services or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether the offender has any specified Class A drug in his or her body.
- (8) The circumstances referred to in subsection (7)(c) are that—
- (a) the offender has attained the age of 18 years;
 - (b) the offender's term of detention was imposed for a trigger offence; and
 - (c) the requirements to provide samples are being imposed for the purpose of determining whether the offender is complying with any other requirements specified in the notice.
- (9) The function of giving such an instruction as is mentioned in subsection (7) (c) must be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules about the

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requirements that may be imposed by virtue of subsection (7) and the provision of samples in pursuance of such an instruction.

(10) In this section—

“specified Class A drug” has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000;

“trigger offence”—

(a) has the same meaning as in that Part, unless paragraph (b) applies;

(b) if the offender's term of detention was imposed for an offence under section 42 of the Armed Forces Act 2006 (criminal conduct), means such an offence as respects which the corresponding offence under the law of England and Wales is a trigger offence within the meaning of that Part.

256C Breach of supervision requirements

(1) Where an offender is under supervision under section 256B and it appears on information to a justice of the peace that the offender has failed to comply with requirements under section 256B(6), the justice may—

(a) issue a summons requiring the offender to appear at the place and time specified in the summons, or

(b) if the information is in writing and on oath, issue a warrant for the offender's arrest.

(2) Any summons or warrant issued under this section must direct the offender to appear or be brought—

(a) before a court acting for the local justice area in which the offender resides, or

(b) if it is not known where the offender resides, before a court acting for same local justice area as the justice who issued the summons or warrant.

(3) Where the offender does not appear in answer to a summons issued under subsection (1)(a), the court may issue a warrant for the offender's arrest.

(4) If it is proved to the satisfaction of the court that the offender has failed to comply with requirements under section 256B(6), the court may—

(a) order the offender to be detained, in prison or such youth detention accommodation as the Secretary of State may determine, for such period, not exceeding 30 days, as the court may specify, or

(b) impose on the offender a fine not exceeding level 3 on the standard scale.

(5) An offender detained in pursuance of an order under subsection (4)(a) is to be regarded as being in legal custody.

(6) A fine imposed under subsection (4)(b) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.

(7) An offender may appeal to the Crown Court against any order made under subsection (4)(a) or (b).

(8) In this section “court” means—

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- (a) if the offender has attained the age of 18 years at the date of release, a magistrates' court other than a youth court;
- (b) if the offender is under the age of 18 years at the date of release, a youth court.”

116 Miscellaneous amendments relating to release and recall

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) Omit section 248(2) (Secretary of State to consult Board before releasing extended sentence prisoner on compassionate grounds).
- (3) In section 256(1) (review by the Board)—
 - (a) for “recommend” substitute “ direct ”;
 - (b) for “recommendation” substitute “ direction ”.
- (4) In section 256A (further review)—
 - (a) in subsection (4)(a), for “recommending” substitute “ directing ”;
 - (b) in subsection (4)(c), for “recommendation” substitute “ direction ”;
 - (c) in subsection (5), for “recommendation” (in both places) substitute “ direction ”.
- (5) In section 260(5) (duties and powers remaining exercisable in relation to persons removed from prison), after “244” insert “, 247 ”.
- (6) In section 261(5) (re-entry to UK of offender removed early: re-release), after “sentence expiry date,” insert “—
 - (a) if the person is serving an extended sentence imposed under section 227 or 228, section 247 has effect in relation to that person as if the reference to one-half of the appropriate custodial term were a reference to the further custodial period;
 - (b) in any other case,”.
- (7) In section 261(6) (re-entry to UK of offender removed early: definitions), in the definition of “requisite custodial period”, after the words “requisite custodial period” insert “—
 - (a) in relation to a prisoner serving an extended sentence imposed under section 227 or 228, means one-half of the appropriate custodial term (determined by the court under that section);
 - (b) in any other case,”.
- (8) In section 263(2)(b) (concurrent terms: authority to release), for “section 244” substitute “ section 246 ”.
- (9) In section 263(2)(c) (concurrent terms: licence period), for the words “for so long, and subject to such conditions, as is” substitute “—
 - (i) until the last date on which the offender is required to be on licence in respect of any of the terms, and
 - (ii) subject to such conditions as are”.

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117 Replacement of transitory provisions

- (1) Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release on licence) is amended as follows.
- (2) In section 237(1)(b) (“fixed-term prisoner” includes those serving sentence of detention)—
 - (a) after “91” insert “ or 96 ”;
 - (b) before “228” insert “ 227 or ”.
- (3) At the end of that section insert—

“(3) In this Chapter, references to a sentence of detention under section 96 of the Sentencing Act or section 227 of this Act are references to a sentence of detention in a young offender institution.”
- (4) In section 244(3)(a) (duty to release prisoners: requisite custodial period), after “91” insert “ or 96 ”.
- (5) In section 250(4) (licence conditions)—
 - (a) after “91” insert “ or 96 ”;
 - (b) before “228” insert “ 227 or ”.
- (6) In section 258 (early release of fine defaulters and contemnors), after subsection (3) insert—

“(3A) The reference in subsection (3) to sentences of imprisonment includes sentences of detention under section 91 or 96 of the Sentencing Act or under section 227 or 228 of this Act.”
- (7) In section 263(4) (concurrent terms)—
 - (a) after “91” insert “ or 96 ”;
 - (b) before “228” insert “ 227 or ”.
- (8) In section 264(7) (consecutive terms)—
 - (a) after “91” insert “ or 96 ”;
 - (b) before “228” insert “ 227 or ”.
- ^{F4}(9)
- (10) In Part 2 of the Crime (Sentences) Act 1997 (life sentences: release on licence)—
 - (a) in section 31A(5) (termination of licences), in the definition of “preventive sentence”, after “a sentence of imprisonment” insert “ or detention in a young offender institution ”;
 - (b) in section 34(2)(d) (interpretation), after “a sentence of imprisonment” insert “ or detention in a young offender institution ”.
- (11) In the Criminal Justice Act 2003 (Sentencing) (Transitory Provisions) Order 2005 (S.I. 2005/643), article 3(7), (10), (11), (12), (13), (14), (15) and (17)(a) and (b) (transitory provision replaced by this section) are revoked.

Textual Amendments

F4 S. 117(9) repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

Changes to legislation: Legal Aid, Sentencing and Punishment of Offenders Act 2012, CHAPTER 4 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

118 Repeal of uncommenced provisions

- (1) This section repeals certain provisions which have not been commenced.
- (2) Omit section 266 of the Criminal Justice Act 2003 (which amends section 64 of the Criminal Justice and Court Services Act 2000 in relation to drug testing requirements).
- (3) Omit section 34 of the Police and Justice Act 2006 (which makes amendments of Part 12 of the Criminal Justice Act 2003 relating to imprisonment for bail offences).
- (4) Omit the following provisions of the Criminal Justice and Immigration Act 2008 (which relate to the early release of persons with a settled intention of residing permanently outside the UK)—
 - (a) section 33(2), (4), (7) and (8) (amendments of the Criminal Justice Act 1991);
 - (b) section 34(2), (4)(b), (7) and (10) (amendments of the Criminal Justice Act 2003).
- (5) In Schedule 8 to the Crime and Disorder Act 1998 (minor and consequential amendments) omit—
 - (a) paragraph 86 (amendments of section 41 of the Criminal Justice Act 1991);
 - (b) paragraph 90 (amendment of section 47 of that Act).

Life sentence prisoners

119 Removal of prisoners from the United Kingdom

After section 32 of the Crime (Sentences) Act 1997 insert—

“Persons liable to removal from the United Kingdom

32A Removal of prisoners liable to removal from United Kingdom

- (1) Where P—
 - (a) is a life prisoner in respect of whom a minimum term order has been made, and
 - (b) is liable to removal from the United Kingdom,
 the Secretary of State may remove P from prison under this section at any time after P has served the relevant part of the sentence (whether or not the Parole Board has directed P's release under section 28).
- (2) But if P is serving two or more life sentences—
 - (a) this section does not apply to P unless a minimum term order has been made in respect of each of those sentences; and
 - (b) the Secretary of State may not remove P from prison under this section until P has served the relevant part of each of them.
- (3) If P is removed from prison under this section—
 - (a) P is so removed only for the purpose of enabling the Secretary of State to remove P from the United Kingdom under powers conferred by—
 - (i) Schedule 2 or 3 to the Immigration Act 1971, or
 - (ii) section 10 of the Immigration and Asylum Act 1999, and

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- (b) so long as remaining in the United Kingdom, P remains liable to be detained in pursuance of the sentence.
- (4) So long as P, having been removed from prison under this section, remains in the United Kingdom but has not been returned to prison, any duty or power of the Secretary of State under section 28 or 30 is exercisable in relation to P as if P were in prison.
- (5) In this section—
 - “liable to removal from the United Kingdom” has the meaning given by section 259 of the Criminal Justice Act 2003;
 - “the relevant part” has the meaning given by section 28.

32B Re-entry into United Kingdom of offender removed from prison

- (1) This section applies if P, having been removed from prison under section 32A, is removed from the United Kingdom.
- (2) If P enters the United Kingdom—
 - (a) P is liable to be detained in pursuance of the sentence from the time of P's entry into the United Kingdom;
 - (b) if no direction was given by the Parole Board under subsection (5) of section 28 before P's removal from prison, that section applies to P;
 - (c) if such a direction was given before that removal, P is to be treated as if P had been recalled to prison under section 32.
- (3) A person who is liable to be detained by virtue of subsection (2)(a) is, if at large, to be taken for the purposes of section 49 of the Prison Act 1952 (persons unlawfully at large) to be unlawfully at large.
- (4) Subsection (2)(a) does not prevent P's further removal from the United Kingdom.”

Application and transitional provision

120 Application and transitional etc provision

Schedule 15 (application of sections 108 to 119 and transitional and transitory provision) has effect.

Simplification of existing transitional provisions

121 Simplification of existing transitional provisions

- (1) Chapter 6 of Part 12 of the Criminal Justice Act 2003 (“the 2003 Act”) is to apply to any person serving a sentence for an offence committed before 4 April 2005 (whenever that sentence was or is imposed).
- (2) Section 258 of the 2003 Act (release of fine defaulters and contemnors) is to apply to any person who was, before 4 April 2005, committed to prison or to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000—
 - (a) in default of payment of a sum adjudged to be paid by a conviction, or

Changes to legislation: *Legal Aid, Sentencing and Punishment of Offenders Act 2012, CHAPTER 4 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) for contempt of court or any kindred offence.
- (3) In accordance with subsections (1) and (2)—
- (a) the repeal of Part 2 of the Criminal Justice Act 1991 which is made by section 303(a) of the 2003 Act has effect in relation to any person mentioned in those subsections;
 - (b) paragraphs 15 to 18, 19(a), (c) and (d), 20, 22 to 28 and 30 to 34 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2008 (S.I. 2005/950) (which relate to the coming into force of provisions of Chapter 6 of Part 12 of the 2003 Act) are revoked.
- (4) Section 86 of the Powers of Criminal Courts (Sentencing) Act 2000 (extension of periods in custody and on licence in the case of certain sexual offences) is repealed.
- (5) Schedule 16 (transitional and other provision consequential on this section) has effect.
- (6) Schedule 17 (amendments to the 2003 Act restating the effect of certain transitional and other provision relating to the release and recall of prisoners) has effect.

Changes to legislation:

Legal Aid, Sentencing and Punishment of Offenders Act 2012, CHAPTER 4 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2016/286, art. 4(1) by [S.I. 2017/225 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 9(3)(4) inserted by [2022 c. 36 s. 25\(2\)](#)
- s. 9A inserted by [2023 c. 32 s. 89\(3\)](#)
- s. 9B inserted by [2023 c. 32 s. 90](#)
- s. 10(3A)-(3E) inserted by [2022 c. 36 s. 67](#)
- Sch. 1 Pt. 1 para. 31ZA and cross-heading inserted by [2022 c. 36 s. 25\(1\)](#)
- Sch. 1 Pt. 1 para. 31B and cross-heading inserted by [2022 c. 36 s. 57\(2\)](#)
- Sch. 1 Pt. 1 para. 19(1A)(1B) and heading inserted by [2022 c. 36 s. 66\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 19(2A) inserted by [2022 c. 36 s. 66\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 19(8A) and heading inserted by [2022 c. 36 s. 66\(2\)\(c\)](#)
- Sch. 1 Pt. 1 para. 25(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 26(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 27(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 27A(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 25(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 26(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 27(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 27A(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 30(1A) and heading inserted by [2022 c. 36 s. 66\(4\)\(a\)](#)
- Sch. 1 Pt. 1 para. 30(2A) inserted by [2022 c. 36 s. 66\(4\)\(b\)](#)
- Sch. 1 Pt. 1 para. 30(3A) and heading inserted by [2022 c. 36 s. 66\(4\)\(c\)](#)
- Sch. 1 Pt. 1 para. 31A(2A) and heading inserted by [2022 c. 36 s. 66\(5\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31A(3A)(3B) and heading inserted by [2022 c. 36 s. 66\(5\)\(b\)](#)
- Sch. 1 Pt. 1 para. 19(6A) inserted by [2023 c. 37 s. 56\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31C inserted by [2023 c. 37 s. 56\(3\)](#)
- Sch. 1 Pt. 1 para. 27A(1) inserted by [S.I. 2017/617 reg. 3\(4\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 11(1A) inserted by [S.I. 2023/150 art. 4\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 11(3A) inserted by [S.I. 2023/150 art. 4\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 2(1)(b) omitted by [2018 anaw 2 Sch. 1 para. 21\(2\)\(a\)\(ii\)](#)
- Sch. 1 Pt. 1 para. 45(2) omitted by [2023 c. 32 s. 91\(2\)](#)
- Sch. 1 Pt. 1 para. 45(3) substituted by [2023 c. 32 s. 91\(3\)](#)
- Sch. 1 Pt. 1 para. 26(1) substituted by [S.I. 2017/617 reg. 3\(2\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))

- Sch. 1 Pt. 1 para. 27(1) substituted by [S.I. 2017/617 reg. 3\(3\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 19(10) words inserted by [2023 c. 37 s. 56\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words inserted by [S.I. 2023/147 art. 2\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words inserted by [S.I. 2023/147 art. 2\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words omitted by [2016 c. 19 Sch. 11 para. 2\(1\)](#)
- Sch. 1 Pt. 1 para. 45(4) words omitted by [2023 c. 32 s. 91\(4\)](#)
- Sch. 1 Pt. 1 para. 26 heading words substituted by [S.I. 2017/617 reg. 3\(2\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 27 heading words substituted by [S.I. 2017/617 reg. 3\(3\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 16A inserted by [2023 c. 37 s. 56\(4\)](#)
- Sch. 1 Pt. 3 para. 11(b) and word inserted by [S.I. 2017/617 reg. 3\(6\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 8(b) omitted by [S.I. 2017/617 reg. 3\(5\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 11(a) and word omitted by [S.I. 2017/617 reg. 3\(6\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 4 para. 8 inserted by [2022 c. 36 s. 66\(6\)](#)